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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,292	04/09/2001	Carl D. Dvorak	29794/37078A	6873

4743 7590 11/22/2005

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EXAMINER

STIMPAK, JOHNNA

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,292

Applicant(s)

DVORAK ET AL.

Examiner

Johnna R. Stimpak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 24-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/25/02, 2/7/02</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS-1449 6/17/02</u> . |

DETAILED ACTION

1. The following is a non-final office action upon examination of application number 09/829,292. Claim 4 has been amended. Claims 12-23 have been cancelled. Claims 1-11 and 24 - 34 are pending and have been examined on the merits discussed below.

Response to Arguments

2. Amendment to claim 4 is sufficient to warrant withdrawal of previous rejection under 35 USC 112, 2nd paragraph.

3. Applicant's arguments filed 9/12/05 have been fully considered but they are not persuasive. Applicant argues that Ralston does not teach a pre-authorized ticket including appointment scheduling information. However, in reevaluating Ralston, Examiner points out that the client information collected prior to scheduling the appointment includes referral information from the physician and also the diagnosis and recommended treatments. This must be collected and confirmed prior to actual scheduling of the appointment.

4. As for Applicant's arguments that Ralston does not teach sending appointment scheduling information to the enterprise healthcare information management system AND to the patient health record server, Examiner disagrees. In column 6 of Ralston, the scheduling information is passed to the scheduling system (10) where information such as client information and appointment date and time are stored. In addition, the scheduling information is also stored along with client information in the scheduling server (80).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-7, 9-11 and 24-34 are rejected under 35 U.S.C. 102(a) as being anticipated by Ralston et al, US 6,389,454.

As per claim 1, Ralston teaches receiving via the electronic network an appointment scheduling request from a service recipient (column 4, lines 35-49 – the client (service recipient) accessing a scheduling system by connecting to a central schedule server wherein the client provides information for scheduling an appointment); determining an authorization of the service recipient to submit the appointment scheduling request (column 4, lines 35-49 – the client enters a predetermined access code in order to access the scheduling facilities); identifying a pre-authorized scheduling ticket for the service recipient, the pre-authorized scheduling ticket including appointment scheduling information (column 4, lines 50-57 – the client specifies preferred date, time and location of appointment); providing to the service recipient an appointment proposal in accordance with the appointment scheduling information (column 6, lines 17-23 – the client receives an appointment date and time from the facility providing the service); and applying a set of rules to the appointment request to determine if the requested appointment is allowed (column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information).

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As per claim 2, Ralston teaches the set of rules comprises a rule selected from the group of rules including: type of patient, patient insurance, referral, provider preference, past patient history and co pay requirements (column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information; column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 3, Ralston teaches the set of rules comprises a hierarchy of rules (client insurance must be verified prior to scheduling based on the type of patient; column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information; column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 4 (amended), Ralston teaches the hierarchy comprises a hierarchy is at least one of the following hierarchical levels: system, facility, department, provider or rule (client insurance must be verified prior to scheduling based on the type of patient (these are rules in a hierarchy since one must be performed prior to the next); column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information; column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 5, Ralston teaches the set of rules is predetermined (column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information).

As per claim 6, Ralston teaches a rule of the set of rules is dynamic (column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain

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procedures based on the patient history; these rules are dynamic since scheduling of the appointment is based on each individual patient. For example a patient with braces cannot be scheduled for an MRI, but one without braces can be).

As per claim 7, Ralston teaches the step of determining an authorization of the service recipient includes authorizing a user initiated scheduling process when a scheduling ticket is not located (column 6, lines 52-55 – the system allows for walk-in patients to receive services).

As per claim 9, Ralston teaches the step of verifying the preauthorization scheduling ticket (column 5, lines 17-50 – the system must verify date and time of scheduled appointment to be sure staff, facility, equipment, etc., are available).

As per claim 10, Ralston teaches verifying the pre-authorization scheduling ticket comprises checking at least one of the group of checks including: availability of self-scheduling for the service recipient, validity of the pre-authorized scheduling ticket, and availability of requested appointment slots (column 5, lines 17-50 – the system must verify date and time of scheduled appointment to be sure staff, facility, equipment, etc., are available).

As per claim 11, Ralston teaches the step of identifying a pre-authorized scheduling ticket for the service recipient comprises receiving the appointment scheduling information from the service provider (column 5, lines 17-50 - communication is made with the service provider to determine availability of facilities at the preferred date and time)

Claims 12-23 (cancelled)

As per claim 24, teaches a self-scheduling server coupled to the patient health record server, the enterprise information server and to the electronic network for secure communications therewith, the self-scheduling server adapted to receive appointment scheduling

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request from patients via the electronic network (column 4, lines 35-49 – the client (service recipient) accessing a scheduling system by connecting to a central schedule server wherein the client provides information for scheduling an appointment); a processor within the self-scheduling server, the processor including a rule base (column 5, lines 1-50 – rules or constraints used to schedule certain procedures based on patient information); and wherein the processor is operable upon the appointment scheduling requests to authorize the appointment scheduling request, to send appointment schedule information to the enterprise healthcare information management system for inclusion in the enterprise information database and to the patient health record server for inclusion in the patient health record database, and to send an appointment acknowledgment to the patient via the electronic network (column 4, lines 55-61 – appointment is verified by checking insurance data; column 5, lines 17-50 – the server receives scheduling information and send it to the central scheduling server to generate a schedule and column 5, lines 61-67 – communication is made to the client to confirm appointment information).

As per claim 25, Ralston teaches pre-authorization scheduling information associated with the patient is stored in at least one of the enterprise information database and the patient health record database (column 4, lines 35-67 – client information is inherently stored in an information database since it is recalled for scheduling of the appointment).

As per claim 26, Ralston teaches the pre-authorization scheduling information comprises a pre-authorized scheduling ticket (column 4, lines 35-67 – the client enters scheduling information along with personal data which makes up a packet of client information that is used to schedule the appointment).

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As per claim 27, Ralston teaches the pre-authorization scheduling ticket is automatically generated by the enterprise healthcare information management system (column 4, lines 35-67 – the client enters scheduling information along with personal data which makes up a packet of client information that is used to schedule the appointment – the packet is generated by the system as the client enters information).

As per claim 28, Ralston teaches the appointment scheduling requests are manually generated by the patient through a user initiated scheduling process, and communicated to the system via the electronic network (column 4, lines 35-64 – the client must enter personal information into the system, inherently this is done manually since the client is prompted to enter the information).

As per claim 29, Ralston teaches the rule base contains a set of rules (column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 30, Ralston teaches the set of rules comprises the group of rules including: type of patient, patient insurance, referral, provider preference, past patient history, and co pay requirements (column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information; column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 31, Ralston teaches the set of rules comprises a hierarchy of rules (client insurance must be verified prior to scheduling based on the type of patient; column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance

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information; column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 32, Ralston teaches the hierarchy comprises a hierarchy selected from the group of hierarchical levels including: system or facility, department, provider and rule (client insurance must be verified prior to scheduling based on the type of patient (these are rules in a hierarchy since one must be performed prior to the next); column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information; column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history).

As per claim 33, Ralston teaches the set of rules is predetermined (column 4, lines 57-64 – client information is verified prior scheduling the appointment including insurance information).

As per claim 34, Ralston teaches a rule of the set of rules is dynamic (column 5, lines 1-15 – other constraints used to schedule include precedence rules defining a sequence of certain procedures based on the patient history; these rules are dynamic since scheduling of the appointment is based on each individual patient. For example a patient with braces cannot be scheduled for an MRI, but one without braces can be).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al, US 6,389,454.

As per claim 8, Ralston teaches the system is capable of allocating facilities and resources to clients who seek services without an appointment, i.e., walk-in clients, but does not explicitly teach the step of applying a more restricted set of rules when an appointment is scheduled through the user initiated scheduling process, however it is old and well known that a walk-in patient must be scheduled so that each patient with an appointment receives service first, with walk-in patients being fit in during cancellations or down time between appointments. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention that scheduling for a walk-in patient would incur a more restricted set of rules since there would be fewer time slots and resources to schedule with. By using a more restricted set of rules for the walk-in patient, the facility would ensure optimal scheduling by utilizing facilities and resources without cutting into scheduled appointment times. This would ensure a more efficient scheduling process.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Stimpak whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS
11/18/05




SUSANNA M. DIAZ
PRIMARY EXAMINER
Au 3623